

Expert Mechanism on the Rights of Indigenous Peoples

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Item 8: United Nations Declaration on the Rights of Indigenous Peoples

Statement of the Asia Indigenous Peoples Caucus and the Asia Indigenous Peoples Pact (AIPP)

Delivered by Atina Pamei, Naga Peoples Movement for Human Rights

Mr. Chairman,

Asia's indigenous peoples welcome the adoption of the Outcome Document of the World Conference on Indigenous Peoples as an indication of the UN member-States commitment to advance and achieve the ends of the United Declaration on the Rights of Indigenous Peoples. In particular, the States have committed to consult in good faith with indigenous peoples in order to obtain their free and prior informed consent before the approval of any project affecting their lands and resources [Para 3, OD]. Also, States have committed to taking, in consultation and in cooperation with indigenous peoples, appropriate measures at the national level, including legislative, policy and administrative measures, to achieve the ends of the United Nations Declaration on the Rights of Indigenous Peoples.

In Asia, we see some positive developments with a number of States having national legislation recognizing land rights of indigenous peoples such as those in Cambodia, India, Indonesia, Malaysia, and Philippines. However, the enforcement of these laws are problematic as we see continuing land-related issues like land grabs, leading to increasing conflicts between the States and indigenous peoples due to the weak enforcement of laws, particularly on the right to free prior and informed consent of affected indigenous communities.

In India, as we make this statement, the Tangkhul Nagas and other local communities of Chadong Village in Ukhrul District, Manipur, North East India are becoming submerged in rising waters of the Mapithel Dam (Thoubal Multipurpose) Project of the Government of Manipur; the Dayaks of Sarawak are on their more than 600 days of barricading the Baram Dam construction; the Lumads of Mindanao are facing severe human rights violations inflicted on them by military and paramilitaries in support of corporate interests; in Indonesia, the Constitutional Court ruling on the community forests still has not been effectively implemented at the local level; and in Cambodia, indigenous communities are now going to international mechanisms to seek redress because domestic remedies are ineffectual. All of these are happening because the rights of these indigenous peoples to their lands and resources as enshrined in relevant domestic laws have not been effectively enforced, despite the continued engagement of affected indigenous communities to call the attention of States on these violations.

To address these emerging and continuing challenges, we urge States to immediately and effectively fulfill their commitment in the Outcome Document of the World Conference on Indigenous Peoples (WCIP) to establish effective, fair, independent, impartial, open and transparent national processes “to acknowledge, advance and adjudicate the rights of indigenous peoples pertaining to lands, territories and resources” [Para 21, OD]. At the same time, we call on States to redress the violations and fulfill their commitment to work with concerned indigenous peoples “to address the impact or potential impact on them of major development projects, including those involving the activities of extractive industries, including with the aim of managing risks appropriately” [Para 23].

For the UN agencies:

1. For the Human Rights Council to take a more proactive role in monitoring and ensure the implementation of the UNDRIP.
2. For the UN agencies to actively seek the substantive participation of indigenous peoples in the formulation of their System-wide Action Plan.

For the EMRIP:

1. To conduct a study on policies and safeguards on human rights due diligence of business on the rights of indigenous peoples.
2. To work closely with relevant UN bodies and procedures under the Human Rights Council, including the Working Group on Business and Human Rights for the monitoring and reporting on how the UNDRIP is incorporated and implemented properly at the national level through constitutional provisions, enabling laws and programme development and implementation among others.
3. To urge the member states through the Human Rights Council to fulfill their commitment of promoting and protecting the rights of indigenous peoples as enshrined in the UNDRIP and the Outcome Document of the WCIP.